



Reprinted
February 25, 2005

HOUSE BILL No. 1223

DIGEST OF HB 1223 (Updated February 24, 2005 9:47 pm - DI 106)

Citations Affected: IC 5-2; IC 10-11; IC 13-11; IC 13-14; IC 25-26; IC 35-33; IC 35-48.

Synopsis: Methamphetamine. Makes ephedrine and pseudoephedrine schedule V controlled substances. Permits a pharmacy to release a record concerning the purchase of a drug containing ephedrine or pseudoephedrine in accordance with state and federal health privacy laws. Requires a law enforcement agency that terminates the operation of a methamphetamine laboratory to report the existence and location of the laboratory to the state police, fire department, and county health department. Requires a law enforcement agency that discovers a child less than 14 years of age at a methamphetamine laboratory to notify the division of family and children. Allows a law enforcement agency to quarantine a property if it is contaminated by chemicals used to manufacture a controlled substance. Establishes a procedure for removing the quarantine. Requires the department of environmental management to maintain a list of persons certified to inspect or clean up property polluted by chemicals used to manufacture a controlled substance. Allows a court to require a defendant demonstrating a pattern of repeated illegal use or manufacture of a controlled substance to participate in a drug treatment program as a condition of bail Adds certain chemical reagents to the list of chemical reagents and precursors used in the manufacture of methamphetamine.

Effective: July 1, 2005.

**Koch, Goodin, Van Haaften,
Borders**

January 6, 2005, read first time and referred to Committee on Education.
January 11, 2005, reassigned to Committee on Courts and Criminal Code.
February 14, 2005, amended, reported — Do Pass.
February 24, 2005, read second time, amended, ordered engrossed.

HB 1223—LS 7631/DI 106+



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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1223

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-2-15 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]:

4 **Chapter 15. Methamphetamine Lab Reporting and Quarantine**

5 **Sec. 1.** As used in this chapter, "certified inspector" means a
6 person certified under IC 13-14-1-15 to inspect and clean property
7 polluted by a contaminant (as defined in IC 13-11-2-42).

8 **Sec. 2.** As used in this chapter, "law enforcement agency" has
9 the meaning set forth in IC 10-11-8-2.

10 **Sec. 3.** As used in this chapter, "methamphetamine laboratory"
11 means a location or facility that:

- 12 (1) is being used;
13 (2) was intended to be used; or
14 (3) has been used;

15 to produce methamphetamine.

16 **Sec. 4.** A law enforcement agency that terminates the operation
17 of a methamphetamine laboratory shall report the existence and

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location of the methamphetamine laboratory to the:

- (1) state police department;
- (2) local fire department; and
- (3) county health department or multiple county health departments, if applicable;

on a form and in the manner prescribed by guidelines adopted by the superintendent of the state police department under IC 10-11-2-31.

Sec. 5. A law enforcement agency that discovers a child less than fourteen (14) years of age at a methamphetamine laboratory shall notify the division of family and children.

Sec. 6. (a) A law enforcement agency that discovers a methamphetamine laboratory may quarantine the property, or part of the property, on which the methamphetamine laboratory is located, if the law enforcement agency believes that the property is polluted by a contaminant (as defined in IC 13-11-2-42).

(b) A law enforcement agency that quarantines property under this section shall:

- (1) post signs declaring that the property has been quarantined; and
- (2) to the extent possible, notify all parties, including a lienholder, having an interest in the quarantined property.

Sec. 7. A person having an interest in property that has been quarantined under section 6 of this chapter may, after notifying the law enforcement agency that quarantined the property, have the property inspected or cleaned by a certified inspector.

Sec. 8. A law enforcement agency that has quarantined a property shall remove the quarantine when a certified inspector files a written report with the law enforcement agency:

- (1) describing the results of the certified inspector's inspection;
- (2) detailing cleanup undertaken by the certified inspector, if any; and
- (3) declaring that the property is safe for human use.

Sec. 9. (a) A person having an interest in property that has been quarantined under section 6 of this chapter may file a petition for an order to remove the quarantine with a circuit or superior court in the county in which the property is located. The person shall serve a copy of the petition on the prosecuting attorney.

(b) The court shall conduct a hearing on the quarantined property. At the hearing, the person having the interest in the property has the burden of proving that the property:

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- (1) was wrongly quarantined; or
- (2) has been properly cleaned and is safe for human use.

(c) If the court finds that the property:

- (1) was wrongly quarantined; or
 - (2) has been properly cleaned and is safe for human use;
- the court shall order the quarantine removed.

SECTION 2. IC 10-11-2-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. (a) The superintendent shall adopt:

- (1) guidelines; and
 - (2) a reporting form or a specified electronic format, or both;
- for the report of a methamphetamine laboratory by a law enforcement agency under IC 5-2-15-4.

(b) The guidelines adopted under this section must require a law enforcement agency to report the existence of a methamphetamine laboratory to the:

- (1) department;
- (2) local fire department; and
- (3) county health department or multiple county health department, if applicable;

on the form or in the specified electronic format adopted by the superintendent.

(c) The guidelines adopted under this section:

- (1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14) that the superintendent determines to be relevant;
- (2) may require the department to report the existence of the methamphetamine laboratory to one (1) or more additional agencies or organizations;
- (3) must require the department to maintain reports filed under IC 5-2-15-4 in a manner permitting an accurate assessment of:

(A) the number of methamphetamine laboratories located in Indiana in a specified period;

(B) the geographical dispersal of methamphetamine laboratories located in Indiana in a specified period; and

(C) any other information that the superintendent determines to be relevant; and

- (4) must require a law enforcement agency to report any other information that the superintendent determines to be relevant.

SECTION 3. IC 10-11-8-4 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The superintendent, with input from other law enforcement agencies, may develop and maintain a **meth watch** program to inform retailers about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 4. IC 13-11-2-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 42. "Contaminant", for purposes of environmental management laws, means any solid, semi-solid, liquid, or gaseous matter, or any odor, radioactive material, pollutant (as defined by the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as in effect on January 1, 1989), hazardous waste (as defined in the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), as in effect on January 1, 1989), any constituent of a hazardous waste, or any combination of the items described in this section, from whatever source, that:

- (1) is injurious to human health, plant or animal life, or property;
- (2) interferes unreasonably with the enjoyment of life or property;
- or
- (3) otherwise violates:
 - (A) environmental management laws; or
 - (B) rules adopted under environmental management laws.

The term includes chemicals used in the illegal manufacture of a controlled substance or an immediate precursor of a controlled substance, and waste produced from the illegal manufacture of a controlled substance or an immediate precursor of the controlled substance.

SECTION 5. IC 13-14-1-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) **The department shall maintain a list of persons certified to inspect and clean property that is polluted by a contaminant. The list may specifically note persons with particular expertise or experience in the inspection or cleanup of property contaminated by chemicals used in the illegal manufacture of a controlled substance or by waste produced from the illegal manufacture of a controlled substance.**

(b) **The department may specify by rule that a person who meets certain qualifications prescribed by the department is a person certified to inspect and clean property that is polluted by a contaminant.**

(c) **The department may adopt rules under IC 4-22-2:**

- (1) **to implement this section; and**
- (2) **concerning the inspection and remediation of quarantined property.**

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SECTION 6. IC 25-26-17-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8. The board shall make available to a law enforcement agency records concerning an Indiana resident's mail order purchase of a drug containing ephedrine or pseudoephedrine from a nonresident pharmacy in accordance with state and federal law.**

SECTION 7. IC 35-33-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "bail bond" means a bond executed by a person who has been arrested for the commission of an offense, for the purpose of ensuring:

- (1) the person's appearance at the appropriate legal proceeding;
- (2) another person's physical safety; or
- (3) the safety of the community, **including the safety of the community from the person's pattern of illegal use or manufacture of a controlled substance.**

SECTION 8. IC 35-33-8-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety, **including the public's safety from the person's pattern of illegal use or manufacture of a controlled substance:**

- (1) Require the defendant to:
 - (A) execute a bail bond with sufficient solvent sureties;
 - (B) deposit cash or securities in an amount equal to the bail;
 - (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail; or
 - (D) post a real estate bond.
- (2) Require the defendant to execute a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail. If the defendant is convicted, the court may retain all or a part of the cash or securities to pay fines, costs, fees, and restitution, if ordered by the court. A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision the following:
 - (A) Fines, costs, fees, and restitution as ordered by the court.

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(B) Publicly paid costs of representation that shall be disposed of in accordance with subsection (b).

(C) In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution.

The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual.

(5) Place the defendant under the reasonable supervision of a probation officer or other appropriate public official.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Require the defendant to enroll in a drug treatment program if the court determines that the defendant has a pattern of repeated illegal use or manufacture of a controlled substance.

~~(8)~~ **(9) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community, including the safety of the community from the person's pattern of illegal use or manufacture of a controlled substance.**

(b) Within thirty (30) days after disposition of the charges against

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the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day.

(e) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 9. IC 35-48-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The controlled substances listed in this section are included in schedule V.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in the following quantities, which shall include one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(6) Not more than 0.5 milligrams of difenoxin (9168), and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) Buprenorphine (9064).

(d) A material, compound, mixture, or preparation that contains

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a quantity of the following substances, pure or adulterated:

(1) Ephedrine.

(2) Pseudoephedrine.

(e) A pharmacy may release a record relating to the purchase of a material, compound, mixture, or preparation that contains a quantity of ephedrine or pseudoephedrine (pure or adulterated) to a law enforcement officer in accordance with state and federal health privacy laws.

(f) The Indiana board of pharmacy may adopt rules under IC 4-22-2 to implement subsection (e).

SECTION 10. IC 35-48-4-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:

(1) Ephedrine.

(2) Pseudoephedrine.

(3) Phenylpropanolamine.

(4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).

(5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).

(6) Organic solvents.

(7) Hydrochloric acid.

(8) Lithium metal.

(9) Sodium metal.

(10) Ether.

(11) Sulfuric acid.

(12) Red phosphorous.

(13) Iodine.

(14) Sodium hydroxide (lye).

(15) Potassium dichromate.

(16) Sodium dichromate.

(17) Potassium permanganate.

(18) Chromium trioxide.

(19) Benzyl cyanide.

(20) Phenylacetic acid and its esters or salts.

(21) Piperidine and its salts.

(22) Methylamine and its salts.

(23) Isosafrole.

(24) Safrole.

(25) Piperonal.

(26) Hydriodic acid.

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(27) Benzaldehyde.

(28) Nitroethane.

(29) Gamma-butyrolactone.

(30) White phosphorus.

(31) Hypophosphorous acid and its salts.

(32) Acetic anhydride.

(33) Benzyl chloride.

(34) Ammonium nitrate.

(35) Ammonium sulfate.

(36) Hydrogen peroxide.

(37) Thionyl chloride.

(38) Ethyl acetate.

(39) Pseudoephedrine hydrochloride.

(b) A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or phenylpropanolamine or a combination of any of these substances~~ **pure or adulterated**, exceeding ten (10) grams commits a Class D felony. However, the offense is a Class C felony if the person possessed:

(1) a firearm while possessing more ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or phenylpropanolamine~~ **pure or adulterated**, exceeding ten (10) grams; or

(2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine, pseudoephedrine, or phenylpropanolamine, or a combination of any of these substances~~ **pure or adulterated**, exceeding ten (10) grams in, on, or within one thousand (1,000) feet of:

(A) school property;

(B) a public park;

(C) a family housing complex; or

(D) a youth program center.

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

(1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under

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1 IC 35-48-2-6; or

2 (2) anhydrous ammonia or ammonia solution (as defined in
3 IC 22-11-20-1) with intent to manufacture methamphetamine, a
4 schedule II controlled substance under IC 35-48-2-6 in, on, or
5 within one thousand (1,000) feet of:

6 (A) school property;

7 (B) a public park;

8 (C) a family housing complex; or

9 (D) a youth program center.

10 (d) Subsection (b) does not apply to a:

11 (1) licensed health care provider, pharmacist, retail distributor,
12 wholesaler, manufacturer, warehouseman, or common carrier or
13 an agent of any of these persons if the possession is in the regular
14 course of lawful business activities; or

15 (2) person who possesses more than ten (10) grams of a substance
16 described in subsection (b) if the substance is possessed under
17 circumstances consistent with typical medicinal or household use,
18 including:

19 (A) the location in which the substance is stored;

20 (B) the possession of the substance in a variety of:

21 (i) strengths;

22 (ii) brands; or

23 (iii) types; or

24 (C) the possession of the substance:

25 (i) with different expiration dates; or

26 (ii) in forms used for different purposes.

27 (e) A person who possesses two (2) or more chemical reagents or
28 precursors with the intent to manufacture:

29 (1) Methcathinone, a schedule I controlled substance under
30 IC 35-48-2-4;

31 (2) Methamphetamine, a schedule II controlled substance under
32 IC 35-48-2-6;

33 (3) Amphetamine, a schedule II controlled substance under
34 IC 35-48-2-6; or

35 (4) Phentermine, a schedule IV controlled substance under
36 IC 35-48-2-10;

37 commits a Class D felony.

38 (f) An offense under subsection (e) is a Class C felony if the person
39 possessed:

40 (1) a firearm while possessing two (2) or more chemical reagents
41 or precursors with intent to manufacture methamphetamine, a
42 schedule II controlled substance under IC 35-48-2-6; or

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1 (2) two (2) or more chemical reagents or precursors with intent to
2 manufacture methamphetamine, a schedule II controlled
3 substance under IC 35-48-2-6 in, on, or within one thousand
4 (1,000) feet of:
5 (A) school property;
6 (B) a public park;
7 (C) a family housing complex; or
8 (D) a youth program center.
9 (g) A person who sells, transfers, distributes, or furnishes a chemical
10 reagent or precursor to another person with knowledge or the intent that
11 the recipient will use the chemical reagent or precursors to manufacture
12 methamphetamine, methcathinone, amphetamine, or phentermine
13 commits unlawful sale of a precursor, a Class D felony.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1223, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:
 "SECTION 1. IC 5-2-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 15. Methamphetamine Lab Reporting and Quarantine

Sec. 1. As used in this chapter, "certified inspector" means a person certified under IC 13-14-1-15 to inspect and clean property polluted by a contaminant (as defined in IC 13-11-2-42).

Sec. 2. As used in this chapter, "law enforcement agency" has the meaning set forth in IC 10-11-8-2.

Sec. 3. As used in this chapter, "methamphetamine laboratory" means a location or facility that:

- (1) is being used;**
- (2) was intended to be used; or**
- (3) has been used;**

to produce methamphetamine.

Sec. 4. A law enforcement agency that terminates the operation of a methamphetamine laboratory shall report the existence and location of the methamphetamine laboratory to the:

- (1) state police department;**
- (2) local fire department; and**
- (3) county health department or multiple county health departments, if applicable;**

on a form and in the manner prescribed by guidelines adopted by the superintendent of the state police department under IC 10-11-2-31.

Sec. 5. A law enforcement agency that discovers a child less than fourteen (14) years of age at a methamphetamine laboratory shall notify the division of family and children.

Sec. 6. (a) A law enforcement agency that discovers a methamphetamine laboratory may quarantine the property, or part of the property, on which the methamphetamine laboratory is located, if the law enforcement agency believes that the property is polluted by a contaminant (as defined in IC 13-11-2-42).

(b) A law enforcement agency that quarantines property under this section shall:

- (1) post signs declaring that the property has been**

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quarantined; and

(2) to the extent possible, notify all parties, including a lienholder, having an interest in the quarantined property.

Sec. 7. A person having an interest in property that has been quarantined under section 6 of this chapter may, after notifying the law enforcement agency that quarantined the property, have the property inspected or cleaned by a certified inspector.

Sec. 8. A law enforcement agency that has quarantined a property shall remove the quarantine when a certified inspector files a written report with the law enforcement agency:

- (1) describing the results of the certified inspector's inspection;
- (2) detailing cleanup undertaken by the certified inspector, if any; and
- (3) declaring that the property is safe for human use.

Sec. 9. (a) A person having an interest in property that has been quarantined under section 6 of this chapter may file a petition for an order to remove the quarantine with a circuit or superior court in the county in which the property is located. The person shall serve a copy of the petition on the prosecuting attorney.

(b) The court shall conduct a hearing on the quarantined property. At the hearing, the person having the interest in the property has the burden of proving that the property:

- (1) was wrongly quarantined; or
- (2) has been properly cleaned and is safe for human use.

(c) If the court finds that the property:

- (1) was wrongly quarantined; or
- (2) has been properly cleaned and is safe for human use;

the court shall order the quarantine removed.

SECTION 2. IC 10-11-2-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 31. (a)** The superintendent shall adopt:

- (1) guidelines; and
- (2) a reporting form or a specified electronic format, or both;

for the report of a methamphetamine laboratory by a law enforcement agency under IC 5-2-15-4.

(b) The guidelines adopted under this section must require a law enforcement agency to report the existence of a methamphetamine laboratory to the:

- (1) department;
- (2) local fire department; and
- (3) county health department or multiple county health

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department, if applicable;
on the form or in the specified electronic format adopted by the
superintendent.

(c) The guidelines adopted under this section:

- (1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14) that the superintendent determines to be relevant;
- (2) may require the department to report the existence of the methamphetamine laboratory to one (1) or more additional agencies or organizations;
- (3) must require the department to maintain reports filed under IC 5-2-15-4 in a manner permitting an accurate assessment of:
 - (A) the number of methamphetamine laboratories located in Indiana in a specified period;
 - (B) the geographical dispersal of methamphetamine laboratories located in Indiana in a specified period; and
 - (C) any other information that the superintendent determines to be relevant; and
- (4) must require a law enforcement agency to report any other information that the superintendent determines to be relevant.

SECTION 3. IC 10-11-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The superintendent, with input from other law enforcement agencies, may develop and maintain a **meth watch** program to inform retailers about illicit methamphetamine production, distribution, and use in Indiana.

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- (1) is injurious to human health, plant or animal life, or property;
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SECTION 4. IC 13-14-1-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 15. (a) The department shall maintain a list of persons certified to inspect and clean property that is polluted by a contaminant. The list may specifically note persons with particular expertise or experience in the inspection or cleanup of property contaminated by chemicals used in the illegal manufacture of a controlled substance or by waste produced from the illegal manufacture of a controlled substance.**

(b) The department may specify by rule that a person who meets certain qualifications prescribed by the department is a person certified to inspect and clean property that is polluted by a contaminant.

(c) The department may adopt rules under IC 4-22-2:

(1) to implement this section; and

(2) concerning the inspection and remediation of quarantined property.

SECTION 6. IC 25-26-17-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8. The board shall make available to a law enforcement agency records concerning an Indiana resident's mail order purchase of a drug containing ephedrine or pseudoephedrine from a nonresident pharmacy in accordance with state and federal law.**

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- (1) the person's appearance at the appropriate legal proceeding;**
- (2) another person's physical safety; or**
- (3) the safety of the community, including the safety of the community from the person's pattern of illegal use or manufacture of a controlled substance.**

SECTION 8. IC 35-33-8-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions**

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to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety, **including the public's safety from the person's pattern of illegal use or manufacture of a controlled substance:**

- (1) Require the defendant to:
 - (A) execute a bail bond with sufficient solvent sureties;
 - (B) deposit cash or securities in an amount equal to the bail;
 - (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail; or
 - (D) post a real estate bond.
- (2) Require the defendant to execute a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail. If the defendant is convicted, the court may retain all or a part of the cash or securities to pay fines, costs, fees, and restitution, if ordered by the court. A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision the following:
 - (A) Fines, costs, fees, and restitution as ordered by the court.
 - (B) Publicly paid costs of representation that shall be disposed of in accordance with subsection (b).
 - (C) In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution.

The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

- (3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.
- (4) Require the defendant to refrain from any direct or indirect contact with an individual.
- (5) Place the defendant under the reasonable supervision of a probation officer or other appropriate public official.
- (6) Release the defendant into the care of a qualified person or

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organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Require the defendant to enroll in a drug treatment program if the court determines that the defendant has a pattern of repeated illegal use or manufacture of a controlled substance.

~~(8)~~ **(9) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community, including the safety of the community from the person's pattern of illegal use or manufacture of a controlled substance.**

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day.

(e) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk."

Page 2, delete lines 1 through 33.

Page 3, line 16, delete "Except as provided in subsection (e), a" and

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insert "A".

Page 4, between lines 14 and 15, begin a new line block indented and insert:

"(29) Gamma-butyrolactone.

(30) White phosphorus.

(31) Hypophosphorous acid and its salts.

(32) Acetic anhydride.

(33) Benzyl chloride.

(34) Ammonium nitrate.

(35) Ammonium sulfate.

(36) Hydrogen peroxide.

(37) Thionyl chloride.

(38) Ethyl acetate.

(39) Pseudoephedrine hydrochloride."

Page 5, line 11, after "to" delete ":".

Page 5, line 11, reset in roman "a:".

Page 5, line 12, delete "a".

Page 5, line 15, reset in roman "or".

Page 5, line 16, after "(2)" delete "a".

Page 5, line 27, delete "; or" and insert ".".

Page 5, delete lines 28 through 29.

Page 6, delete lines 17 through 19.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1223 as introduced.)

ULMER, Chair

Committee Vote: yeas 10, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1223 be amended to read as follows:

Page 8, line 4, delete "Liquid ephedrine or pseudoephedrine (as defined in" and insert "**A pharmacy may release a record relating to the purchase of a material, compound, mixture, or preparation that contains a quantity of ephedrine or pseudoephedrine (pure or adulterated) to a law enforcement officer in accordance with state and federal health privacy laws.**

(f) The Indiana board of pharmacy may adopt rules under IC 4-22-2 to implement subsection (e)."

Page 8, delete line 5.

Renumber all SECTIONS consecutively.

(Reference is to HB 1223 as printed February 15, 2005.)

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